

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE TREMONT SECURITIES LAW,  
STATE LAW AND INSURANCE  
LITIGATION

MDL Docket No: 09-md-02052 (TPG)  
Master Docket No: 08 Civ. 11117  
(TPG)

This Document Relates to:  
All Actions: 08 Civ. 11117 (TPG)  
09-md-02052 (TPG)

**HAINES' NOTICE OF MOTION AND MOTION FOR  
RELIEF UNDER FRCP RULE 60**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that objectors Madelyn Haines and Paul Zamrowski (collectively hereinafter "Haines") hereby move pursuant to Federal Rule of Civil Procedure Rule 60 for relief from the final judgment approving the settlement on the basis of newly discovered evidence relevant to the merits of the Final Judgment and Order of Dismissal With Prejudice Regarding Settlement and Rules 23 and 23.1 initially entered on August 22, 2011 (08 Civ. 11117 Dkt.# 604) and revised pursuant to an order entered September 21, 2011 (Dkt.#616).

Earlier this month, Haines received newly discovered evidence showing that Lead Counsels' repeated representations to this Court that non-Madoff Tremont Fund assets invest had been "protected" by Lead Counsel and would continue to be distributed to the Tremont Fund investors were not true.<sup>1</sup> Rather, the new evidence shows that, shortly after Lead Counsel made these assurances to this Court, in September 2011, Defendants

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<sup>1</sup> Numerous representatives of the Defendants, including a number of their attorneys, were present when Lead Counsel made these representations to the Court and were copied on Lead Counsels' pleadings making such representations. None spoke up to inform the Court that Lead Counsels' "protection" representations were not true, or disclosed their plan implemented September 2011 to take substantially all of the proceeds from the sale of non-Madoff Tremont Fund assets.

took all or substantially all of the monies created by the sale of the non-Madoff Tremont Fund assets in both of Haines' Tremont Funds to fund Defendants' settlement of the bankruptcy trustee's claims. This occurred after repeated representations by Lead Counsel that non-Madoff Tremont Fund assets were protected and would be distributed to Tremont Fund investors, like Haines. Haines suspects that each of the other Tremont Funds were subjected to similar takings by the Defendants. Haines also believes that the new evidence may call into question the veracity of representations to the Court regarding the ongoing protection of the \$100 million settlement fund in this case.

The newly discovered evidence shows that this Court received untrue information about material terms of the settlement as a part of its approval process, and raises substantial questions as to: (a) the fairness of the settlement to the Tremont Funds and Tremont Fund class members; (b) certification of the state and securities classes without a separate subclass and separate representation for Tremont Fund class members, (c) approval of the settlement of the Tremont Funds' derivative claims without any Tremont Fund having a derivative representative investor plaintiff, and (d) the sufficiency of class notice.

Haines respectfully requests that this Court schedule a hearing on this Rule 60 motion, that movants be permitted to conduct discovery relevant to the motion, that this Court set aside the Court's Final Judgment and that the Court grant such further relief as is appropriate.

In support of this notice and motion, Haines relies upon the supporting memorandum and declaration filed herewith, the pleadings and papers filed in this action, and such other materials, information and argument as may be brought before the Court.

Dated: August 22, 2012.

LAW OFFICE OF VINCENT T. GRESHAM

By: /s/ Vincent T. Gresham

Vincent T. Gresham

2870 Peachtree Road, #306

Atlanta, Georgia 30305

Tel: (404) 281-2762

gresham05@comcast.net

*Counsel for Appellants Madelyn Haines  
and Paul Zamrowski*